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## URBANISM AND A NEW STATE CONSTITUTION

MELVIN PRICE\*

THE CITIZENS of Illinois who would be called upon to draft a new constitution for the state would need to confront three interrelated trends that have dominated the shifting patterns of population and government in the state since our present Constitution was promulgated almost one hundred years ago.

### URBANIZATION

The first of these trends is the continuing shift in our population from rural to urban areas in the vicinity of the large cities which dominate the state. This shift in population need not be extensively catalogued. In 1960, 80.7 percent of the total population of Illinois was characterized as urban-based.<sup>1</sup> In contrast, in 1870, when the state's present Constitution was accepted, only 23.5 percent of the state's residents were classified as urban-based. These figures alone should serve as stark reminders to those who would draft a new constitution that this document must be one tailored to the needs and dictates of the times. Urbanization has created massive problems which will have to be solved in the next one hundred years. In some way solutions will have to be found to deal with air and water pollution, spreading urban blight, unemployment in our cities, substandard housing, unequal education, archaic transportation systems, and a myriad of other problems created by urbanism.

### LOCAL GOVERNMENT CONFUSION

The second trend, which is a direct outgrowth of the first, occurs in the governmental organization of developing urban areas. Dramatic changes have occurred, and are today occurring, in the patterns of

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<sup>1</sup> U.S. CENSUS BUREAU, CENSUS OF POPULATION pt. 15, Table 1, at 8 (1960).

government in the areas immediately surrounding the large core cities which dominate the state.

From 1870 to 1940 the largest population growth centers were the cities of our present urban complexes. These areas were relatively well organized and were able to provide essential services for their residents.

I need not take the reader's time and this volume's precious space to detail the vast jigsaw puzzle of local governmental bodies that have enveloped these cities since 1940. Everyone is well aware of the jurisdictional complexities that have developed in the counties immediately to the north, west, and south of Chicago. But as an example, allow me to bring attention to a similar change in the patterns of government that have occurred within the Congressional District which I represent.

The 24th District includes within its boundaries all of St. Clair County and two thirds of Madison County, both situated in the southwestern section of the state across the Mississippi River from St. Louis, Missouri. In 1940 this district was predominantly one of medium-sized, geographically separate and distinct cities and towns, which dealt capably with their limited local problems. The unincorporated areas interspersed between the cities and towns were effectively governed and protected by their respective township and county governments. In 1940 the 24th District was geographically proximate to the City of St. Louis, but not directly dependent upon that city. Its problems were viewed as separate from those of its larger neighbor in Missouri. Citizens did not generally have a metropolitan concept of their needs for mass transit systems, expressways, environmental pollution controls, employment opportunities, and the like.

In the years since 1940, the population of the district has increased substantially and has become more and more dispersed throughout the entire region. The majority of the population is no longer concentrated in central areas near St. Louis. As in other areas in the state, this has produced a significant complexity in local governmental agencies. Envision an overlapping and flawed pyramid of dozens of general and special purpose governmental bodies and you have a snapshot of governmental organization in this district today. The populations of older towns have expanded beyond their city limits into surrounding incorporated and unincorporated areas. The residents of these areas encounter problems similar to those suffered by the adjacent cities,

but they must go elsewhere for relief. Sometimes more than five or six governmental authorities may have some relation to a given area.

New towns have been incorporated in the district, to provide essential services such as police and fire protection. But these municipal governments, in some instances, have no authority to provide for schools, housing, and sanitation. This is left to other special purpose districts whose jurisdiction does not usually match that of the municipal government. A school district, for example, may encompass within its boundaries several municipalities in whole or in part. Others are so small that they only provide one or two schools.

In the last 25 years, the 24th District has become an integral part of the sprawling St. Louis metropolitan complex with all the myriad problems and proliferating governmental bodies that accompany metropolitanization. In that time the residents of the Illinois section of the metropolitan community have begun to see that solutions to many of the problems that arise from mass urbanization can be dealt with most effectively only in a total, metropolitan context. If their rising demands for solutions are to be met, action will have to be taken to clear up the confusion at the level of local government.<sup>2</sup>

#### FEDERAL ASSISTANCE TO URBAN AREAS

The third new trend needing consideration during the drafting process is the ever increasing participation of the federal government in resolving the problems caused by urbanization. Specifically, ways must be found to utilize the federal resources efficiently.

In 1940, the federal government began to take a direct interest in solving the problems created by the shift towards the urban-suburban style of life.<sup>3</sup> By 1965, Congress had created more than four hundred separate programs to assist local municipal governments and special districts.<sup>4</sup> Grant-in-Aid, loan, and technical assistance programs were created to aid in the development of urban necessities such as metro-

<sup>2</sup> For relevant statistical data regarding the rapid urbanization of this district and specific communities, *see, e.g.*, 1 U.S. CENSUS BUREAU, CENSUS OF POPULATION pt. 13, Table 6, at 24 (1950). *See also* 1 U.S. CENSUS BUREAU, CENSUS OF POPULATION pt. 15, Table 25, (1960).

<sup>3</sup> For an historical survey of early federal assistance programs, *see* V.O. KEY, JR., *THE ADMINISTRATION OF FEDERAL GRANTS TO STATES* (1937).

<sup>4</sup> *See* OFFICE OF ECONOMIC OPPORTUNITY, *CATALOG OF FEDERAL ASSISTANCE PROGRAMS* (1967).

politan mass transit systems, expressways, water and air pollution controls, open park areas, urban renewal, schools, and employment opportunities.

The desirability of funneling these new federal resources in an organized fashion through the state government was recognized in a few of the laws creating these new programs.<sup>5</sup> But most of the new assistance has been directed towards the corresponding jurisdiction on the local level, which deals on a day to day basis with the problem area serviced by the program. Urban renewal funds, for example, are disbursed to the appropriate municipal government.<sup>6</sup> Actual contractual and administrative responsibility for federal education grants is vested in local school districts which do not always conform to municipal boundaries and have very little administrative responsibility to other local agencies.<sup>7</sup> Some of these local projects must be in conformity with county, regional, or state plans; but actual responsibility has become vested in the local agencies which overlap each other in amazing confusion and have little responsibility to one another or to a central governmental agency.<sup>8</sup> The municipal governments and special districts have made valiant efforts to solve their local problems with this new federal aid; but, more often than not, the problem has expanded beyond the geographic areas within their jurisdiction.

In general, efforts to deal with problems on a county, regional, or metropolitan basis, have been convulsive, incomplete, and slow in producing results. Attempts at comprehensive and centralized planning have remained in an embryonic stage. Areawide allocation and administration of federal resources on a priority of need is absent.<sup>9</sup>

#### WHO IS AT FAULT

A great deal of confusion has accompanied the three new trends that have developed in Illinois. Where does the responsibility lie for the confusion that has evolved at the local level in the state's urban

<sup>5</sup> For an example of this type of funding, see Vocational Education Act of 1963, 20 U.S.C. §§ 35-35n (1964).

<sup>6</sup> Housing Act of 1949, 42 U.S.C. §§ 1450-1464 (1964).

<sup>7</sup> See Elementary and Secondary Education Act of 1965, 20 U.S.C.A. §§ 236-244 (1964).

<sup>8</sup> Vocational Education Act of 1963, 20 U.S.C.A. §§ 35-35n (1964).

<sup>9</sup> There have been some initial efforts at coordination under the East-West Gateway Coordinating Council in the Metropolitan St. Louis area.

areas? The federal government must share the blame in this matter. By dealing directly with the local municipalities and special districts as the appropriate and existing jurisdiction for administering limited purpose assistance grants, the federal government has unwittingly supported the development of the conglomeration of local governments and districts. The state itself must assume a sizeable share of the responsibility for the failure to coordinate efforts at the local level to solve problems which cross the existing jurisdictional boundaries since the state is the sole source of all authority for the creation and development of its local government organs.

At the top of the local governmental structure, the county remains, by and large, the government most regional in scope, but it has only limited authority and in many cases must defer action to other agencies under our present law. Seldom does a county's area conform with prevailing population distributions; but changes in county boundaries are not even discussed because they are tightly regulated under the state's present Constitution.<sup>10</sup>

Below the level of county government, the problem is even more serious. To date, the state has not found it necessary to actively and directly limit the creation of local municipal governments and quasi-governmental special districts. When a defined area meets the legal criteria for organization into a local governmental body, and follows all of the required procedural steps, it is granted a charter to fix its boundaries as it desires, so long as they do not conflict with similar, previously chartered jurisdictions.<sup>11</sup> Local municipalities and quasi-governmental districts have developed their own boundaries within this permissive legal framework.<sup>12</sup> In our urban areas, as noted, these boundaries do not conform to any planned pattern but often crisscross through other types of governmental jurisdictions.

The problems at this lower level of local government are compounded by other closely linked statutory provisions. As indicated above, the state has been unable to control the formation of its offspring and it has been even less able to control them after creation. Coordination and consolidation are nearly impossible at this local level. Annexations

<sup>10</sup> See ILL. CONST. art. X, §§ 1-5.

<sup>11</sup> For the relevant legislative provision, see ILL. REV. STAT. ch. 24, §§ 2-1-1 to 2-1-7 (1967).

<sup>12</sup> Today Illinois has more local governmental bodies than any other state.

directly from above or by the local jurisdictions themselves are severely restricted by legislative requirements.<sup>13</sup>

Thus, to argue that the state government did not play a role in creating, through its basic law, the metropolitan labyrinth of governments we find today, is to beg the question. The resting place of responsibility, whether active through exercise or corroded through default, must lie with the state.

#### PROPOSALS

How should a new constitution confront the three problems briefly outlined: (1) mass urbanization, (2) confusion and complexity in local government, and (3) uncoordinated, spasmodic utilization of federal urban assistance funds? What should the new basic law include to deal with the fragmentation of effort, the lack of coordination, and the failure to allocate resources on a rational basis of priorities?

Those who are called upon to draft this new article should take into account the many federal programs that are already available. If they do this, they might readily conclude that there is little need to provide for the development of new broad scale programs of state financial assistance and aid to urban areas. Presently, the federal government has programs that can effectively meet the needs of these areas. The Convention should concentrate on tightening up the administration in Springfield, of these ongoing programs. The delegates should consider efforts to facilitate organized and coordinated allocation of federal resources in the state's metropolitan areas. They should concentrate first on creating a local jurisdictional matrix within which federal resources can be more efficiently and rapidly utilized.

Specifically, the Convention should consider providing the General Assembly with authority to develop independent machinery with jurisdiction to revise county boundaries in order to bring them into conformity with present and predicted "metropolitan boundaries." They should also consider the feasibility of writing into the new document permissive authority for the creation of supra-county governmental bodies with jurisdiction to deal with problems which cross county boundary lines and which require a regional scope of attack. This regional authority should have the power to settle priorities of need. They should also have power to contract for all federal assistance funds

<sup>13</sup> See ILL. REV. STAT. ch. 24 §§ 7-1-1 to 7-1-47 (1967).

which attack multi-county regional problems, and should be the sole agency responsible for their allocation.

To facilitate centralized administration and responsibility at the county level, the delegates should consider increasing the authority of county governments to coordinate the administration of all federal or state programs aimed at solving problems that cross local, municipal, or special district boundary lines. To clear up the confusion between the state government in Springfield and the local governments, consideration should be given to providing constitutional home rule for each county by requiring counties to adopt home rule charters setting out the scope of their authority.<sup>14</sup>

The Convention should move to remedy the confused boundaries and responsibilities of municipal governments and special districts. New methods of consolidation and annexation must be devised to facilitate the attack on problems which cross village and city boundary lines.<sup>15</sup> Special provisions must be included to encourage the consolidation of local special districts, and these special districts should be held responsible, for administration of programs involving federal financial aid, to the county or regional governmental agency.

If the Convention would consider solutions somewhat along these lines, the process of dealing with the difficulties of mass urbanization could be accelerated. Federal assistance could certainly be more effective if there were additional coordination and consolidation at the local level.

However, the state need not limit its role in attacking the problems of its urban areas to solely an organizational one. Most of the new federal assistance programs that are having an impact within the state's urban areas have "matching requirements."<sup>16</sup> In a typical

<sup>14</sup> For guidance in this general area, refer to the text of the proposed Constitution for the State of Maryland. See in particular Section 37 of the "Schedule of Transitional Provisions." Also refer to Article 7 of this document. The Maryland Draft, which is generally considered a model document, will be submitted to Maryland voters for adoption on May 14, 1968.

<sup>15</sup> For pertinent recommendations, see ROSCOE C. MARTIN, *METROPOLIS IN TRANSITION* (1963), which was prepared for the United States Housing and Home Finance Agency. See also COMMITTEE FOR ECONOMIC DEVELOPMENT, *MODERNIZING LOCAL GOVERNMENT* (1966); STAFF OF ADVISORY COMMISSION ON INTERGOVERNMENTAL RELATIONS (for the House Committee on Government Operations), 87th CONG., 1ST SESS., *REPORT ON GOVERNMENTAL STRUCTURE, ORGANIZATION, AND PLANNING IN METROPOLITAN AREAS*, (Comm. Print 1961); ADVISORY COMMISSION ON INTERGOVERNMENTAL RELATIONS, *ALTERNATIVE APPROACHES TO GOVERNMENTAL REORGANIZATION IN METROPOLITAN AREAS* (1962).

<sup>16</sup> For an example in the field of education, see Elementary and Secondary Education Act of 1965, 20 U.S.C.A. §§ 236-244 (1964). Basic grants are made equal to *one-half* of the average state per-pupil expenditure.



situation, the federal government agrees to put up fifty percent of planning and development costs if the state or local agencies can match this with the other fifty percent of the cost. The intention of Congress was to induce the state and local governments to appropriate funds under the allurements of federal rewards. Often, however, the local governments that have the most need for federal assistance are unable to finance the "matching requirement" because of a dwindling tax base and a limited power to increase bonded indebtedness. Under these circumstances they have often looked to the state government for assistance. But ordinarily, appropriations have not been made to meet these emergency "matching requirements" and the local government is forced to forego the federal assistance.

The General Assembly would be much more responsive to the needs of Illinois' urban areas if it had authority to permit the appropriate executive official, in the absence of an appropriation, to provide a commitment for financial support to local governments when they are unable to provide the local portion of the federal matching requirements. When there is federal assistance available, there should be no delay in the state's affirmative response to an offer of aid.

Optimized utilization of federal resources by local governments could also be increased by a provision in the new constitution permitting the local governments to incur a limited amount of bonded indebtedness above the established constitutional limits when federal financial assistance is made available.<sup>17</sup> In this same area, some thought should be given to providing a special, added taxing authority for local agencies when there is federal support available. This would involve a tax pool solely for meeting the demands of federal "matching requirements."<sup>18</sup>

#### CONCLUSION

Admittedly these proposals are not exhaustive or even comprehensive. I am certain that other proposals will be developed in this Symposium and that more would be developed in a Constitutional Convention. The main reason for making them is to spark debate on the three trends already described. All three are important develop-

<sup>17</sup> For the present limitation provisions, see ILL. CONST. art. IX, § 12.

<sup>18</sup> For some timely recommendations in this area of Constitutional reform as it affects our metropolitan area, see the recommendations made by the Assembly on the State and Its Cities. 64 U. ILL. BULL. 9 (1967).

ments that must be taken into account if the new constitution is to compliment the realities of the times. Illinois is no longer a rural state: two thirds of its people are urban residents. Urbanization has led to a confusion in the structure of our local governments which should be corrected. With the increased urbanization, the federal government is playing an increased role in the state's urban areas and the state must respond with a constitution that compliments this federal effort.